

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3904 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

PRABHABEN VAIKUNTALAL TRIVEDI

Versus

STATE OF GUJARAT

Appearance:

MS PRAGNA V PANDYA for Petitioner
MS DARSHNA PANDIT, AGP for State
MR SN SHELAT for Respondent No. 3
MR JV MEHTA for Respondent No. 4, 5, 6

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 01/09/2000

ORAL JUDGEMENT

1. The petitioner, who was working as Assistant
Primary School Teacher in the respondent No.5 - school,
had sought a direction in this petition on the

respondents Nos. 1 to 3 authorities not to grant permission to the respondent No.4 - trust to start a new primary school in the premises of the respondent No.5 school or to grant permission for running additional classes in the said premises.

2. The petitioner's contention was that no change in management of a primary school can be made without the prior approval of the authority recognizing the school. According to the petitioner, a show was going to be made as if the students have changed the school and this gimmick was being adopted by the school management only with a view to deprive the petitioner of her job and salary.

3. In what manner the school should be run and as to what number of classes should be there in a school, is a matter between the management of the school and the concerned authorities, and the petitioner could have had no say in the matter. If any of her rights were adversely affected, she could have resorted to her remedies under the law. In the present petition, the petitioner has made it clear in para 13 of the petition that the dispute which is raised in this petition is not regarding the conditions of service of the petitioner with the management, and therefore, the dispute is not covered u/s 40[E] of the Bombay Primary Education Act.

4. It is pointed out by the learned Assistant Government Pleader appearing for respondents Nos. 1, 2 and 3 that, subject to the outcome of this petition, an order was already made on 14th February 1992, a copy of which is placed on the record, by which the respondent No.4 - trust was permitted to close the respondent No.5 primary school w.e.f. 29th February 1992. Pursuant to that order, it appears that the school management made an order on 1st July 1992 in which it was recorded that the petitioner was sent an amount of Rs.32,540/- by a cheque dated 1st July 1992 for the amount payable to the petitioner consequential upon the closure of the school.

5. The competent authority was entitled to grant the written approval to make a change in the management of a private primary school under Rule 106[5] of the Bombay Primary Education Rules, 1949, and if on the request of the respondent No.4 - trust, the competent authority has allowed the closure of the respondent No.5 - school, the petitioner had no locus standi to object against such permission. If any of her rights were adversely affected, she was entitled to take recourse to law, but she could not have insisted on continuation of the

school, notwithstanding the fact that the respondent No.4 - trust had applied for its closure and the concerned authority granted a written permission for such closure.

6. In that view of the matter, there is no substance in this petition and it is therefore rejected. Rule is discharged with no orders as to costs. Interim relief stands vacated.

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